THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.27828 of 2007

Dated:27.12.2007

Between

C.Venku Reddy

..Petitioner

and

1.APSRTC rep., by its
Managing Director, Hyderabad and
Another.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.27828 of 2007

ORDER:

This writ petition is filed seeking a Mandamus to declare the action of 4th respondent in removing the petitioner from service vide proceedings No.E1/1(68)/2003-SLPT dated 16.8.2004 as confirmed by 3rd respondent in appeal vide proceedings No.Steno/19(13)2006-DVM/GDR dated 27.1.2006 and further confirmed in review by 2nd respondent in Proceedings No.St/675(03)2006-RM (NLR) dated 24.5.2006 as arbitrary, illegal and contrary to the principles of natural justice.

It appears that while working as a Conductor at Rapur depot, the petitioner was arrested and put behind bars in view of his involvement in a murder case. However, on grant of bail by the trial Court,

he was released, and thereafter, reported to duty. While so, by an order dated 13.1.2004, the trial Court convicted the petitioner for the offence under Section 302 IPC. The appeal filed by him before this Court was allowed by Judgment dated 2.1.2006. In the meanwhile, the petitioner was issued with charge sheet dated 25.6.2003 for the following charge:

> "For having been absent for your duty un-authorisedly from 22.6.2003 to 25.6.2003 without any intimation resulted in dislocation of services leading to inconvenience to the traveling public and loss of revenue to the corporation which constituted misconduct under Ref.28 (XXVII) & (IX.A) of employees (conduct) Reg.1963."

After conducting a detailed enquiry into the matter, the petitioner was removed from service for his unauthorized absence from 22.6.2003 to 25.6.2003.

The grievance of the petitioner was that though no enquiry was conducted for his absence for the earlier period, the same was also taken into

consideration for the purpose of imposing punishment of removal from service. Therefore, he filed an appeal before the third respondent and it was rejected. Aggrieved thereby, he filed review petition before the second respondent, but it was also rejected. Hence, the present writ petition is filed.

It seems that the charge memo was issued to the petitioner for his unauthorized absence only for a period of four days from 22.6.2003 to 25.6.2003. During the course of enquiry, the Enquiry Officer has recorded that the petitioner was absent from duty, and basing on that finding, the punishment of removal from service was imposed. I am of the opinion that even if the charge of unauthorized absence of four days is proved, the punishment of removal from service is shockingly disproportionate to that of the misconduct alleged against the petitioner. Therefore, the petitioner ought not to have been removed from service.

Accordingly, the review order passed by the second respondent on 24.5.2006 is set aside and

the matter is remitted to the 2nd respondent for re-consideration of the entire issue and for imposing lesser punishment than that of the removal from service and passing appropriate orders within a period of four weeks from the date of receipt of a copy of the order.

Writ petition is allowing accordingly. No costs.

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27-12-2007

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